

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Team # 5	CCRB Case #: 201301267	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 02/16/2013 10:30 AM	Location of Incident: § 87(2)(b) § 87(2)(b) 1st Precinct stationhouse	Precinct: 01	18 Mo. SOL 8/16/2014	EO SOL 8/16/2014	
Date/Time CV Reported Fri, 02/22/2013 5:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 02/22/2013 5:53 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Robert Myers	02934	916305	001 DET
2. DT3 Paul Adams	00188	903317	001 DET
3. An officer			
4. SGT Alison Esposito	01751	920258	MTN DET
5. SGT Courtney Nilan	01365	935402	006 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT2 Robert Myers	Abuse: Det. Robert Myers entered and searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.DT2 Robert Myers	Force: At § 87(2)(b) in Manhattan, Det. Robert Myers used physical force against § 87(2)(b)	§ 87(2)(b)
C.DT3 Paul Adams	Abuse: Det. Paul Adams entered and searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
D.DT3 Paul Adams	Force: At § 87(2)(b) in Manhattan, Det. Paul Adams used physical force against § 87(2)(b)	§ 87(2)(b)
E.SGT Courtney Nilan	Abuse: At § 87(2)(b) in Manhattan, Sgt. Courtney Nilan refused to provide her name and/or shield number to § 87(2)(b)	§ 87(2)(b)
F.SGT Alison Esposito	Abuse: At the 1st Precinct stationhouse, Sgt. Alison Esposito refused to provide her name and/or shield number to § 87(2)(b)	§ 87(2)(b)
G.SGT Alison Esposito	Discourtesy: At the 1st Precinct stationhouse, Sgt. Alison Esposito spoke rudely to § 87(2)(b)	§ 87(2)(b)
H. An officer	Abuse: At the 1st Precinct stationhouse, an officer refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On February 22, 2013, § 87(2)(b) filed the following complaint via the CCRB website (Encl. 2A-E).

At approximately 10:30 a.m. on February 16, 2013, § 87(2)(b) was arrested at § 87(2)(b) in Manhattan by Det. Robert Myers and Det. Paul Adams of the 1st Precinct Detective Squad. He was transported to § 87(2)(b) and then to the 1st Precinct stationhouse. The following allegations resulted:

- **Allegation A – Abuse of Authority – Det. Robert Myers entered and searched § 87(2)(b) in Manhattan.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation B – Force – At § 87(2)(b) in Manhattan, Det. Robert Myers used physical force against § 87(2)(b).**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation C – Abuse of Authority – Det. Paul Adams entered and searched § 87(2)(b) in Manhattan.**
- **Allegation D – Force – At § 87(2)(b) in Manhattan, Det. Paul Adams used physical force against § 87(2)(b).**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation E – Abuse of Authority – At § 87(2)(b) in Manhattan, Sgt. Courtney Nilan refused to provide her name and/or shield number to § 87(2)(b).**
- **Allegation F – Abuse of Authority – At the 1st Precinct stationhouse, Sgt. Alison Esposito refused to provide her name and/or shield number to § 87(2)(b).**
- **Allegation G – Discourtesy – At the 1st Precinct stationhouse, Sgt. Alison Esposito spoke rudely to § 87(2)(b).**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation H – Abuse of Authority – At the 1st Precinct stationhouse, an officer refused to provide his name and/or shield number to § 87(2)(b).**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

This case was initially assigned to Inv. Jesse Spieler-Jones on February 27, 2013. On May 3, 2013, the case was reassigned to Inv. Alexander Opoku-Agyemang upon Inv. Spieler-Jones' reassignment to the Administrative Prosecution Unit.

Results of Investigation

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) old at time of the incident, is a 6'0" tall, 160-pound white man with brown hair and blue eyes. At the time of the incident, § 87(2)(b) was § 87(2)(b) and resided at § 87(2)(b)

in Manhattan.

Statement to Medical Provider

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) (Encl. MR1-8). His chief complaint was provided as “toe injury.”

CCRB Testimony

On March 12, 2013, § 87(2)(b) was interviewed at the CCRB (Encl. 4B-H), § 87(2)(g)

§ 87(2)(b) stated that he had had a longstanding acrimonious relationship with his brother § 87(2)(b). On February 15, 2013, he sent the following series of text messages to his brother:

- “Mom has taken my life and career from me. I want to hurt her and I hate her, until she uses her remaining life force and connections to fix my fucked up career, since she outed me and her cousin, her grandparents, online as CIA spies. You can be between us now. Please inform her that any contact to me that’s not repairing my damaged health and § 87(2)(b), I will consider it a threat to my sanity, privacy, sanctity and well-being, and I will take steps to hurt her sense of safety and well-being permanently, hence letting go of her completely.”
- “I am more hurt and despondent since mom compromised my security, life, future and career than you or she will ever know or imagine. Her life and yours are less safe permanently because of mom’s actions and ignorance.”
- “I’m unemployed and homeless and the laughing stock of my generation, internationally, since mom outed our family, in our email box, as a bunch of fucking spies. If you’re one too, don’t bother ever speaking to me again.”
- “I have a broken back and many injuries and centering daily is my job.”
- “I have Paul McCartney and Bill Clinton’s therapists for five years to deal with this. This energy is at you and mom and the celebrities who fucked me over. You do the work, and come to my home, or I have no use but to plan your death unexpectedly and painfully for a few years from now, when your kids will turn into killers because of it.”
- “Get real and get into my world or be killed by my shadow...I’d rather see you dead and lose my life and story and truth to your doubts and fears and excuses.”
- “I have nothing more to say to you unless you come to my home like a real goddamn man does. If not by Monday, I’ll start planning your death and you’ll never see me again...Wise up or die wrong. Don’t contact me again unless you come to my home to sort this. I’ll be available to time it with you between 10:00am and 6:00pm tomorrow. And yes, I have power and authority to kill you and not be punished for it. I’m backed by the military on four continents, Harvard, Columbia, the mob and the IRA. No, that’s not a ‘delusion.’ I’d have long ago shot myself dead for your lack of love and understanding and written you a note as to why if I had a gun. So I’d kill your company, your safety, and eventually you now, unless you come be my brother...I’d rather you dead than alive, shunning me.”

§ 87(2)(b) sent the following text in reply:

- “I love you. I also think that you need to get some help, because who you have become recently is scaring people.”

At approximately 10:30 a.m. on February 16, 2013, § 87(2)(b) was asleep in § 87(2)(b) in Manhattan, which he shares with his girlfriend, § 87(2)(b), who was not home at the time. § 87(2)(b) heard a loud banging at his door. He went to the door barefoot and heard, “Yeah, open

up!” When § 87(2)(b) opened the door, he saw two plainclothes officers, identified via the investigation as Det. Robert Myers and Det. Paul Adams of the 1st Precinct Detective Squad. Det. Myers immediately placed one foot in the doorway and one hand on the door. There had been no other conversation prior to Det. Myers doing this. Det. Myers asked if he was § 87(2)(b) and § 87(2)(b) replied that he was. Det. Myers asked if he lived at the location and he replied that he did. In his sworn statement, § 87(2)(b) stated that Det. Myers then said, “We’d like to ask you some questions about some text messages you sent your brother.” In his initial complaint, § 87(2)(b) stated that the officers never mentioned the text messages to his brother. § 87(2)(b) asked Det. Myers for his business card, which Det. Myers provided. § 87(2)(b) told the officers that he wanted to speak with his family to clarify what was going on before speaking with the officers later. § 87(2)(b) called § 87(2)(b) but he did not pick up. Det. Myers said, “How about we take you out here and put you in handcuffs?” § 87(2)(b) replied that he did not know why Det. Myers would need to do that and stated that he merely wanted to get in touch with his family. § 87(2)(b) then told the officers, “I didn’t invite you in. Please move your foot so I can close my door and call my family.” Det. Myers replied, “You don’t have that right.” § 87(2)(b) stated that he did, and he and Det. Myers became involved in a dispute regarding whether or not § 87(2)(b) had the right to shut his door. Det. Myers then dropped his right shoulder and slammed it into the door, causing the door to swing inward and hit § 87(2)(b)’s bare left foot, causing his second toe to “snap in half.” Simultaneously, the metal latch of the door struck § 87(2)(b)’s left hand, causing a laceration to his left palm. Det. Myers stomped on § 87(2)(b)’s left foot and grabbed his left wrist. Det. Adams then entered the apartment, grabbed § 87(2)(b)’s right wrist, and stomped on his right foot approximately two to three times. § 87(2)(b) was backed up against a cupboard. The officers pushed § 87(2)(b) into the cupboard approximately three or four times.

§ 87(2)(b) repeatedly screamed, “Help me. There are two guys in my apartment. They said they’re cops. They’re hurting me.” § 87(2)(b)’s next-door neighbor, § 87(2)(b) exited his apartment. At this time § 87(2)(b) was halfway inside his apartment and halfway out, one of his wrists was handcuffed at this time, and Det. Adams’ boot was still on his foot. § 87(2)(b) told § 87(2)(b) not to do anything so as to avoid making the situation worse. The officers pulled § 87(2)(b) into the hallway and fully handcuffed him. § 87(2)(b) estimated that, from start to finish, it took the officers approximately five to eight seconds to handcuff him. He stated that he never did anything to prevent the officers from handcuffing him and never attempted to touch them. § 87(2)(b) stated that the officers did not use any physical force against him once § 87(2)(b) came into the hallway. After handcuffing him, the officers walked § 87(2)(b) out of the building, past several of his neighbors. Once outside, one of the officers, he was not sure whom, pushed § 87(2)(b) into a black Chevrolet Impala. § 87(2)(b) said to the officers, “You guys hurt me. You didn’t have to hurt me.” Det. Adams said, “You’re hurt? I’m a little hurt too.” Det. Adams began to laugh and say that he was going to fake injuries.

The officers transported § 87(2)(b) directly to § 87(2)(b) where he was diagnosed with a broken toe. During his six hours at the hospital, § 87(2)(b) a total of about ten additional officers, three of whose names he requested, arrived at various times. Two of these officers provided their names as “Captain Messina,” identified via the investigation as Capt. Gary Messina of Detective Borough Manhattan Zone 2, and “Detective Cosi,” identified via the investigation as Det. Anthony Cozzi of the 1st Precinct Detective Squad. The third officer, a female plainclothes officer, was identified via the investigation as Sgt. Courtney Nilan of the 6th Precinct Detective Squad. § 87(2)(b) asked Sgt. Nilan, “May I ask who you are please?” Sgt. Nilan replied, “No.”

§ 87(2)(b) was discharged from § 87(2)(b) at approximately § 87(2)(b) at which time he was taken back to the 1st Precinct stationhouse. At the stationhouse, he spoke with an officer who identified himself as “Detective Iriziri,” identified via the investigation as Det. Federico Irizarry of the 1st Precinct

Detective Squad. § 87(2)(b) was taken to the Detective Squad holding cell on the 3rd Floor of the stationhouse around 5:00 p.m. No one else was in the holding cell with § 87(2)(b) during this time. While in the holding cell, § 87(2)(b) asked an unidentified plainclothes officer, whom he described as an approximately 6'2" to 6'3" tall, 220 to 250 pound mixed-race or "Italian" male, for his name. He did not provide his name. Later, at some time between about 5:30 p.m. and 6:30 p.m., § 87(2)(b) asked another officer, a plainclothes white female, identified via the investigation as Sgt. Allison Esposito of the Midtown North Detective Squad, for her name. Sgt. Esposito replied, "No. Sit down and shut the fuck up. You have no rights."

In court, an order of protection was issued, barring § 87(2)(b) from contacting his brother. As a result of the force used during his arrest, § 87(2)(b) suffered a broken toe on his left foot, bruising on his feet, a cut on his right foot, bruising of his ribs, and lacerations on both hands. § 87(2)(b) took photographs of these various injuries while at § 87(2)(b) on February 16, 2013 (Encl. 4I-K), when he returned home on February 18, 2013 (Encl. 4L-X), and approximately two weeks later (Encl. 4Y-CC).

Photo Viewing Interview

On August 21, 2013, a single shot photo viewing was conducted with § 87(2)(b) at the CCRB (Encl. 4DD-HH). He was shown photographs of Sgt. Phillip Panzarella of the Midtown South Detective Squad, Det. John Vergona of the 1st Precinct Detective Squad, Sgt. Brian Bustrin of the 1st Precinct, and Sgt. Daniel Feldman of the 1st Precinct. § 87(2)(b) did not positively identify any of the officers in the photographs.

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at time of the incident, is a white male with black hair and brown eyes. At the time of his telephone statement, § 87(2)(b) resided at § 87(2)(b). He is § 87(2)(b)'s brother.*

SPRINT # § 87(2)(b)

Domestic Incident Report

Statement of Allegations/Supporting Deposition

On February 15, 2013, § 87(2)(b) called 911 and reported that he and his mother had been receiving threats via phone and the internet (Encl. 7A). § 87(2)(b) then filed a corresponding Domestic Incident Report against his brother § 87(2)(b) (Encl. 5A-B). He alleged that § 87(2)(b) had been threatening him and their mother and that, on February 15, 2013, § 87(2)(b) sent him messages and posted online that he would kill him. § 87(2)(b) noted that § 87(2)(b) uses drugs and refuses to seek psychological help. He also noted that § 87(2)(b) had a history of suicide threats but no access to weapons.

Telephone Statement

On May 6, 2013, § 87(2)(b) provided a telephone statement (Encl. 5C). § 87(2)(b) stated that, prior to February 15, 2013, § 87(2)(b) had been sending death threats directed towards him via twitter and text message. On February 15, 2013, § 87(2)(b) called 911 and filed a complaint. On that day, two unidentified uniformed officers came to his office and spoke with him and took his complaint. On the morning of February 16, 2013, an officer, identified via the investigation as Det. Myers, called § 87(2)(b). Det. Myers requested that § 87(2)(b) send him evidence of § 87(2)(b)'s threats. § 87(2)(b) sent photos of the twitter postings and text messages that § 87(2)(b) had posted and sent. Det. Myers informed § 87(2)(b) that he would go speak with § 87(2)(b) that day and confirmed § 87(2)(b)'s address with § 87(2)(b).

Later on February 16, 2013, § 87(2)(b) made several calls to the number provided to him by Det. Myers. A different detective responded and informed § 87(2)(b) that Det. Myers and another detective had gone to see § 87(2)(b) and had been injured in the process. § 87(2)(b) called again later in the day and was able to speak with Det. Myers. Det. Myers informed § 87(2)(b) that he and his partner had gone to speak with § 87(2)(b) earlier in the day and that § 87(2)(b) had refused to open the door for them and had attempted to call § 87(2)(b) repeatedly. § 87(2)(b) acknowledged that he had received calls from § 87(2)(b) earlier in the day but had ignored the calls. Det. Myers stated that § 87(2)(b) had acted “crazy” and “strange” and had fought back when they tried to arrest him. Det. Myers stated that he had hurt his shoulder, his partner had hurt his wrist, and § 87(2)(b) had hurt his toe.

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at time of the incident, is a white female with black hair and brown eyes. At the time of her statement, § 87(2)(b) resided at § 87(2)(b). She is § 87(2)(b)'s mother.*

Telephone Statement

On May 6, 2013, § 87(2)(b) provided a telephone statement (Encl. 5D). § 87(2)(b) stated that, prior to § 87(2)(b)'s arrest on February 16, 2013, he had been sending she and § 87(2)(b) threatening messages via twitter and text. In his initial messages, § 87(2)(b) threatened to “mess” his family members “up” for not understanding him. The messages escalated to him threatening to kill anybody who got in his way, including his family. On the morning of February 16, 2013, prior to § 87(2)(b)'s arrest, Det. Myers called § 87(2)(b). Det. Myers informed § 87(2)(b) that he was going to go see § 87(2)(b) later that day and that they were treating the case as a domestic violence case. Det. Myers asked § 87(2)(b) if she believed § 87(2)(b) would be dangerous or hurt him. § 87(2)(b) replied that she did not believe that § 87(2)(b) would be dangerous or had any weapons but that he had been starving himself.

Attempts to Contact Civilians

A call was placed to § 87(2)(b) on April 11, 2013, and a voicemail message was left for him. § 87(2)(b) called back later that day but stated that he could not speak at the time. He agreed to be called back on April 17, 2013, to discuss the incident. A call was made to § 87(2)(b) on April 17, 2013. § 87(2)(b) did not pick up and a voicemail message was left for him. Another call was made to § 87(2)(b) on May 6, 2013, and another voicemail message was left for him. Letters were sent to § 87(2)(b) by postal mail and email on April 11, 2013, and May 6, 2013. These letters were not returned by the US Postal Service or the email server. § 87(2)(b) did not respond to these attempts to contact him.

NYPD Statements:

Subject Officer: DET. ROBERT MYERS

- Det. Myers, § 87(2)(b) *old at time of the incident, is a 5’7” tall, 220-pound white male with brown hair and brown eyes.*
- Det. Myers worked from 8:00 a.m. to 7:15 p.m. on February 16, 2013. He was assigned to the 1st Precinct Detective Squad investigations team with Det. Adams. They were in business suits and were assigned to unmarked car #773, a black Chevrolet Impala.

Memo Book

Det. Myers’ memo book entries from February 16, 2013 (Encl. 6N-O), note that, at 10:20 a.m. he went to § 87(2)(b) with Det. Adams. At 5:30 p.m., he returned to the command from § 87(2)(b).

Line of Duty Injury Report and Witness Statement

AIDED Report

UF61 Complaint Report

Arrest Reports

Det. Myers reported in his Line of Duty Injury Report (Encl. 6Z-BB), AIDED Report (Encl. 6X-Y), and UF61 Complaint Report (Encl. 6V-W), that when he and Det. Adams attempted to apprehend § 87(2)(b) he kicked and fought with the officers, pushing Det. Myers to the ground and causing him to suffer pain in his right arm and shoulder. Det. Myers filed two separate Arrest Reports (Encl. 6P-U) for § 87(2)(b)'s arrest, one for threatening his brother, for which he was charged with § 87(2)(b) and for using force against him (Det. Myers), for which he was charged with § 87(2)(b).

CCRB Testimony

On July 11, 2013, Det. Myers was interviewed at the CCRB (Encl. 6CC-EE). On the morning of February 16, 2013, prior to going to see § 87(2)(b) Det. Myers had spoken with § 87(2)(b)'s brother, § 87(2)(b) who informed him that he had received a call from § 87(2)(b) threatening to kill him and his family. § 87(2)(b) informed Det. Myers that he feared for his family's safety and had moved his family to § 87(2)(b) for the night. Det. Myers' intention in going to § 87(2)(b) was to arrest § 87(2)(b). When they arrived, Det. Myers knocked on the door to § 87(2)(b)'s apartment. § 87(2)(b) answered and opened the door. Neither Det. Myers nor Det. Adams attempted to push the door or ram it with their shoulder. Neither of them placed their foot in the doorway or made any attempt to enter the apartment. § 87(2)(b) made no attempt to close the door and neither Det. Adams nor Det. Myers attempted to prevent him from doing so. The door was opened about halfway and Det. Myers could see clearly into the apartment. Det. Myers described the apartment as small with a sink directly beside the front door in a small foyer in which § 87(2)(b) was standing while speaking to the officers. Det. Myers observed a kitchen knife lying on the sink.

Det. Myers identified himself and asked if he could enter the apartment. § 87(2)(b) told Det. Myers that he could not come in because it was not his apartment and no one else was there. Det. Myers informed § 87(2)(b) that they were there in regards to a complaint filed by his brother. § 87(2)(b) said he wanted to speak to his brother. § 87(2)(b) walked to the sink, leaving the front door open, and appeared to attempt to make a phone call. Det. Myers did not hear any conversation and presumed that no one picked up the phone call. § 87(2)(b) returned to the front door. Det. Myers told § 87(2)(b) that he needed to speak to him about the complaint at the stationhouse. § 87(2)(b) requested Det. Myers' card and Det. Myers offered it. Holding the door with one hand, § 87(2)(b) stepped out of his apartment to grab the card. When § 87(2)(b) stepped out of the apartment, Det. Myers grabbed his forearm in order to attempt to handcuff him. § 87(2)(b) began to pull his body back into the apartment, using his hand on the door as leverage. Det. Myers continued to hold on to § 87(2)(b) and both of them fell to the ground, with parts of their bodies breaching the doorway. Det. Myers stated that this was the first point that either he or Det. Adams entered the apartment. Det. Myers landed on his shoulder and § 87(2)(b) landed either on his stomach or back. Det. Myers attempted to handcuff § 87(2)(b) while they were on the ground. § 87(2)(b) resisted by kicking his legs and flailing his arms and was screaming loudly for his neighbors to call the ACLU. One of § 87(2)(b)'s neighbors, identified via the investigation as § 87(2)(b) came into the main hallway and told § 87(2)(b) to "calm down." Det. Adams attempted to assist by trying to grab at § 87(2)(b)'s arms but could not do much because the doorway and foyer in which Det. Myers was struggling with § 87(2)(b) were extremely narrow. After a short struggle, Det. Myers was able to handcuff § 87(2)(b). Neither Det. Myers nor Det. Adams punched § 87(2)(b) stepped on his feet, or pushed him into any objects during the struggle.

After handcuffing § 87(2)(b) Det. Myers picked him up and brought him outside into the hallway. § 87(2)(b) said that his toe was broken. § 87(2)(b)'s toe on one his foot did appear to

Det. Myers to be unusually bent. § 87(2)(b) asked Det. Myers if he could straighten his toe. § 87(2)(b) then lifted his foot back and, with his rear handcuffed hands, attempted to move his toe around. Det. Myers assumed that § 87(2)(b)'s broken toe had been caused by him kicking his door while kicking his legs during his attempt to resist arrest. Det. Myers and Det. Adams took § 87(2)(b) out of the building. Once they were outside, Det. Myers noticed there was a small laceration on § 87(2)(b)'s hand and told him they were going to take him to § 87(2)(b). Det. Myers did not notice and § 87(2)(b) did not complain of any other injury or laceration on his body. Det. Myers put § 87(2)(b) into car without incident. Neither Det. Myers nor Det. Adams forcefully put or pushed § 87(2)(b) into the vehicle. During the car ride to § 87(2)(b) neither officer said they were going to fake injuries.

After arriving at § 87(2)(b) Det. Myers never saw § 87(2)(b) again after this point, either at the hospital or back at the stationhouse. Det. Myers noticed his shoulder was hurting and Det. Adams complained of pain in his wrist. Det. Myers notified Sgt. Alison Esposito and Sgt. Courtney Nilan of the incident and they responded to the hospital. When Sgt. Nilan and Sgt. Esposito arrived, they released Det. Adams and Det. Myers of duty and told the detectives to get examined. Det. Myers was diagnosed with a § 87(2)(b). Det. Myers did not see any interaction between either Sgt. Esposito or Sgt. Nilan and § 87(2)(b). Det. Myers did not hear § 87(2)(b) request Sgt. Esposito, Sgt. Nilan, or any officer's name or shield number. Det. Myers did not hear any officer tell § 87(2)(b) to "shut the fuck up."

Subject Officer: DET. PAUL ADAMS

- Det. Adams, § 87(2)(b) old at the time of the incident, is a 5'10" tall, 268-pound white male with grey hair and blue eyes.
- Det. Adams worked from 8:00 a.m. to 7:15 p.m. on February 16, 2013. He was assigned to the 1st Precinct Detective Squad investigations team with Det. Myers. They were in business suits and were assigned to unmarked car #773, a black Chevrolet Impala. Det. Adams has since retired from the NYPD.

Memo Book

Det. Adams' memo book entries from February 16, 2013 (Encl. 6A-B), note that, at 10:20 a.m., he went to § 87(2)(b) with Det. Myers. At 5:45 p.m., he returned to the command due to a line-of-duty injury.

Line of Duty Injury Report and Witness Statement

AIDED Report

UF61 Complaint Report

Det. Adams reported in his Line of Duty Injury Report (Encl. 6C-D), AIDED Report (Encl. E-F), and UF61 Complaint Report (Encl. 6H-I), that when he attempted to apprehend § 87(2)(b) he kicked and fought with the officers, causing Det. Myers to suffer pain and swelling in his left wrist, arm, and shoulder.

CCRB Testimony

On June 14, 2013, Det. Adams was interviewed at the CCRB (Encl. 6J-M). At approximately 10:20 a.m. on February 16, 2013, Det. Myers requested that Det. Adams accompany him to § 87(2)(b) in regards to a domestic incident case that Det. Myers was investigating. Det. Adams explained that, to his understanding, they were going to the location to arrest the suspect because, "For a domestic incident, if we can make the arrest, we have to." When they arrived at § 87(2)(b) the officers knocked on the door of § 87(2)(b)'s apartment and he opened the door. Det. Adams and Det. Myers identified themselves as detectives from the 1st Precinct. Det. Myers spoke with § 87(2)(b) while Det. Adams stood approximately two feet away and kept an eye on the rest of the floor and the nearby staircases to make sure they were safe. § 87(2)(g)

Det. Adams stated that, when § 87(2)(b) went inside to call his brother, Det. Myers drew his attention to a knife lying on the kitchen counter. § 87(2)(b) appeared to be touching the knife “a little bit,” though he never picked up the knife or made any threatening motions with it. When § 87(2)(b) returned to the entrance of his apartment, Det. Adams heard Det. Myers inform him that in a domestic incident they have to arrest the suspect, in this case him. § 87(2)(b) said to Det. Myers, “Give me your business card and I’ll call you and make arrangements.” § 87(2)(b) stepped out of the apartment to get Det. Myers’ business card and Det. Myers grabbed his arms. § 87(2)(b) pulled himself back into the apartment, pulling Det. Myers with him. Both Det. Myers and § 87(2)(b) then fell to the floor inside the apartment. Det. Adams stated that, while he heard them hit the ground, he was not in position to actually see them fall to the ground. When he stepped around to see them, they were laying side-by-side on the ground and were “wrestling.” Det. Myers appeared to be attempting to restrain § 87(2)(b)’s arms while § 87(2)(b) pulled away his arms and twisted his body. Det. Adams never observed Det. Myers step or stomp on § 87(2)(b)’s foot and never did so himself, but stated that it was possible that, during the struggle, he could have accidentally stepped on § 87(2)(b)’s foot without realizing it.

Det. Adams stepped into the apartment to help Det. Myers handcuff § 87(2)(b). As Det. Adams knelt down and grabbed § 87(2)(b)’s arm, he became wedged between § 87(2)(b) and the door and his left hand struck the doorway. § 87(2)(b) was screaming repeatedly, “Call the ACLU, the police are beating me. Help.” § 87(2)(b) stepped out of an apartment on the same floor as § 87(2)(b)’s apartment and approached them. § 87(2)(b) said to § 87(2)(b) “§ 87(2)(b) listen, they are police; let them do their job; go with them. Calm down.” As § 87(2)(b) approached and spoke to § 87(2)(b) he stopped resisting and calmed down. When he calmed down, they were able to handcuff him.

Det. Adams did not look at § 87(2)(b)’s toes or feet and did not know what action during the incident would have caused his toe to be broken though he stated that § 87(2)(b) could have “banged” his toe during the struggle without the officers noticing. After arresting § 87(2)(b) Det. Myers and Det. Adams called their command and informed a sergeant that they were taking § 87(2)(b) to § 87(2)(b). Det. Adams recalled that the sergeant whom he called was female and was either Sgt. Alison Esposito or Sgt. Courtney Nilan but did not specifically recall which one it was. At § 87(2)(b) Det. Myers and Det. Adams both received treatments for their own injuries suffered during the struggle with § 87(2)(b). Det. Adams was diagnosed with a sprained left wrist. Det. Adams did not see § 87(2)(b) again once they arrived at the hospital. He did not witness any interaction between § 87(2)(b) and either Sgt. Esposito or Sgt. Nilan at the hospital or at the stationhouse and did not see or hear him request either of their names or shield numbers or those of any other officers. After receiving treatment at § 87(2)(b) Det. Adams returned to the 1st Precinct Detective Squad. He did not interact with § 87(2)(b) at the stationhouse.

Subject Officer: SGT. COURTNEY NILAN

- Sgt. Nilan, § 87(2)(b) old at the time of the incident, is a 5’6” tall, 130-pound white female with blond hair and blue eyes.
- Sgt. Nilan worked from 8:00 a.m. to 7:30 p.m. on February 16, 2013. She was assigned to the 6th Precinct Detective Squad but was also zone coverage supervisor for the 1st Precinct, 13th Precinct, and 28th Precinct detective squads. She was in business suit and was assigned to unmarked car #1688.

Memo Book

Sgt. Nilan’s memo book entries from February 16, 2013 (Encl. 6FF-GG), note that, at 10:30 a.m. she was assigned to the 1st Precinct, 13th Precinct, and 28th Precinct detective squads as a zone coverage supervisor.

CCRB Testimony

On July 31, 2013, Sgt. Nilan was interviewed at the CCRB (Encl. 6HH-II). At approximately 10:30 a.m. on February 16, 2013, Sgt. Nilan received a call from Sgt. Esposito, who informed her that two detectives from the 1st Precinct Detective Squad had been injured while apprehending a prisoner and were at § 87(2)(b). Sgt. Nilan and Sgt. Esposito agreed to meet at § 87(2)(b). Sgt. Nilan was the first supervisor to arrive at § 87(2)(b). She went to the emergency room and observed Det. Adams and Det. Myers standing beside § 87(2)(b) on a hospital bed. Sgt. Nilan spoke with Det. Adams and Det. Myers, who complained that they had been injured during the arrest. Sgt. Nilan could not recall the exact injuries the officers complained of. Sgt. Nilan did not recall having spoken with § 87(2)(b) and did not recall having heard him request hers or any other officers' name or shield number. After speaking with Det. Adams and Det. Myers, Sgt. Nilan called Capt. Gary Messina, the duty captain, and informed him of the incident. Shortly thereafter Capt. Messina and then Sgt. Esposito arrived at the hospital. Capt. Messina assigned Sgt. Nilan to go to the 13th Precinct to supervise a search warrant and Sgt. Esposito to supervise the paperwork for Det. Adams and Det. Myers' injuries. Sgt. Nilan left the hospital and went to the 13th Precinct. She did not go to the 1st Precinct stationhouse at any point and afterwards never saw § 87(2)(b) again.

Subject Officer: SGT. ALISON ESPOSITO

- *Sgt. Esposito, § 87(2)(b) old at the time of the incident, is a 5'7" tall, 130-pound white female with brown hair and green eyes.*
- *Sgt. Esposito worked from 8:00 a.m. to 8:00 p.m. on February 16, 2013. She was assigned to as the Manhattan South division 1 and 3 coverage supervisor for the 1st Precinct, 5th Precinct, and 7th Precinct detective squads. She was in a business suit and was assigned by herself to unmarked car #225.*

Memo Book

Sgt. Esposito's memo book entries from February 16, 2013 (Encl. 6JJ-KK), note that, at 10:45 a.m. she went to § 87(2)(b) in regards to injured officers.

CCRB Testimony

On August 9, 2013, Sgt. Esposito was interviewed at the CCRB (Encl. 6LL-MM). At approximately 10:45 a.m. on February 16, 2013, Sgt. Esposito was notified by phone by a detective in the 1st Precinct Detective Squad, she did not recall who this detective was, that two other detectives from the squad had been injured while arresting a subject in a domestic violence investigation. Sgt. Esposito immediately responded to § 87(2)(b). When Sgt. Esposito arrived at § 87(2)(b) she encountered Det. Adams and Det. Myers, who informed her that, while effecting an arrest, the suspect, identified as § 87(2)(b) fought with them and violently resisted arrest, causing them to suffer injuries. Sgt. Esposito recalled that one of the officers had suffered a dislocated shoulder and the other had hand and rib injuries. Sgt. Esposito did not recall what injuries, if any, § 87(2)(b) suffered. Sgt. Esposito did not recall whether or not she saw or spoke with § 87(2)(b) at the hospital. She did not recall hearing him request any officer's name or shield number and she did not hear him requesting her name or shield number.

At approximately 5:00 p.m., Det. Adams and Det. Myers were discharged and Sgt. Esposito went with them to the 1st Precinct Detective Squad. There, Sgt. Esposito filled Line of Duty Injury paperwork for Det. Adams and Det. Myers. She saw § 87(2)(b) in the cells in the squad area. Sgt. Esposito observed § 87(2)(b) several times while going about her duties but she had no verbal interactions with him. Sgt. Esposito observed § 87(2)(b) talking with Det. Federico Irizarry while in the cells but she did not recall hearing what was said. She did not recall hearing him request her name or shield number and she did not hear him request any other officer's name or shield number. She denied having told § 87(2)(b) to "sit down and shut the fuck up" and she did not hear any other officer do so.

Medical Records

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (Encl. MR1-8). He was diagnosed with a closed fracture of second toe on his left foot, which was splinted and had a boot placed on it, and abrasions to his left palm and right toe, which were cleaned and bandaged.

NYPD Documents

Roll Calls

The 1st Precinct Detective Squad Roll Call for the week of February 16, 2013 (Encl. 7C), lists Det. Myers, Det. Adams, and Det. Cozzi as having been assigned to the squad on February 16, 2013.

Command Log/Sign-in Sheet

The 1st Precinct Detective Squad Command Log/Sign-in Sheet for February 16, 2013 (Encl. 7D), notes that Det. Adams, Det. Myers, and Det. Cozzi, signed in as present for duty at 8:00 a.m., verified by Sgt. Feldman. Sgt. Esposito checked in at 9:00 a.m. and Sgt. Nilan at 10:40 a.m. Det. Vergona and Det. Irizarry signed in at 2:00 p.m. and Det. Cozzi signed out at 6:00 p.m., with no supervisor verifying. Det. Myers signed out at 7:15 p.m., verified by Sgt. Esposito.

Movement Log

The 1st Precinct Detective Squad Movement Log for February 16, 2013 (Encl. 7E), notes that at 10:30 a.m. Det. Myers and Det. Adams went to § 87(2)(b). At 11:00 a.m. Det. Cozzi went to § 87(2)(b). At 3:30 p.m., Det. Cozzi, Det. Adams, and Det. Myers returned from § 87(2)(b).

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- A Notice of Claim search was requested from the Comptroller's Office on September 17, 2013. A response has not been received as of October 16, 2013.

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (Encl. 1F).

Subject Officer(s) CCRB History

- Det. Myers has been a member of the service for 18 years and there are no substantiated CCRB allegations against him (Encl. 1A).
- Det. Adams, who has retired, was a member of the service for 20 years and there were no substantiated CCRB allegations against him (Encl. 1B-C).
- Sgt. Nilan, who has since been promoted to the rank of lieutenant, has been a member of the service for nine years and there are no substantiated CCRB allegations against her (Encl. 1D).
- Sgt. Esposito has been a member of the service for 15 years and there are no substantiated CCRB allegations against her (Encl. 1E).

Conclusion

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Identification of Subject Officer(s)

- Det. Adams and Det. Myers provided their names to § 87(2)(b) and he identified them by name in his statement as the two officers who came to his apartment and arrested him. § 87(2)(g)
- It is undisputed that Sgt. Esposito and Sgt. Nilan were the two plainclothes female officers who responded to § 87(2)(b) and that, while Sgt. Esposito later went to the 1st Precinct stationhouse, Sgt. Nilan did not. Furthermore, § 87(2)(b) provided similar descriptions of the two officers and both Sgt. Nilan and Sgt. Esposito fit these descriptions. The allegations made against the female officer whom § 87(2)(b) interacted with at § 87(2)(b) have been pleaded against Sgt. Nilan while the allegations against the female officer whom § 87(2)(b) interacted with at the 1st Precinct stationhouse have been pleaded against Sgt. Esposito. § 87(2)(g)
- § 87(2)(b) alleged that, while he was in a holding cell in the 1st Precinct Detective Squad holding cell, he requested that a plainclothes male officer identify himself and the officer refused. As per the information obtained from the 1st Precinct Detective Squad roll call, command log, and movement log, Det. Irizarry, Det. Cozzi, Det. Adams, Det. Myers, and Det. Vergona would have been the male officers at the 1st Precinct Detective Squad around the time § 87(2)(b) alleges that this occurred. With the exception of Det. Vergona, § 87(2)(b) had already interacted with and obtained the names of the other four officers. Moreover, as a 6'2" tall, 230 pound white male of Italian descent (Encl. 7KK), Det. Vergona closely matched the description provided by § 87(2)(b) of the officer who refused to provide his name. However, when a photo of Det. Vergona was shown to § 87(2)(b) he did not identify him as the officer who refused to identify himself. Furthermore, as per the NYPD, Det. Vergona has retired in the intervening time (Encl. 10P, 10AA). § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority – Det. Robert Myers entered and searched § 87(2)(b) in Manhattan.

It is undisputed that § 87(2)(b) had sent messages to his family members threatening to kill them and potentially himself and that his brother had filed a Domestic Incident Report in regards to these threats. It is undisputed that Det. Adams and Det. Myers went to § 87(2)(b)'s apartment to arrest him in regards to this complaint. It is undisputed that Det. Myers requested to enter the apartment and § 87(2)(b) refused to allow them to enter. It is undisputed that, at some point, Det. Myers and Det. Adams entered § 87(2)(b)'s apartment. § 87(2)(g)

§ 87(2)(b) alleged that, when he opened the door to his apartment, Det. Myers immediately placed his foot in the doorway and placed his hand on the door. Then, later in the incident, when § 87(2)(b) attempted to close the door, Det. Myers struck it with his shoulder to open it and then entered the apartment and attempted to arrest him. Both Det. Myers and Det. Adams denied that Det. Myers broke the plane of the door to § 87(2)(b)'s apartment with his foot or arm when he opened the door. They both stated that, the first time any part of Det. Myers' body entered the apartment was when, after § 87(2)(b) had stepped out of his apartment to obtain Det. Myers' business card, Det. Myers grabbed him and § 87(2)(b) pulled himself into the apartment, causing both he and Det. Myers to fall into the apartment. § 87(2)(g)

The courts have established that warrantless entries into private homes are presumed unconstitutional. Exceptions to this rule include consent, hot pursuit, as established in People v. Skinner, 284 A.D.2d 906 (2001) (Encl. 0A), exigent circumstances, as established in People v. McBride, 14 N.Y.3d 440 (2010) (Encl. 0B-H), and an emergency situation, as established in People v. Greenleaf, 222 A.D.2d 838 (1995) (Encl. 0I-J).

§ 87(2)(g)

Allegation B – Force – At § 87(2)(b) in Manhattan, Det. Robert Myers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Det. Myers pushed him against a cupboard and stepped on his foot in the process of arresting him. § 87(2)(b) denied that he resisted the officers' attempts to arrest him. § 87(2)(b) estimated that this phase of the incident lasted approximately five to eight seconds. He suffered bruises on his ribs and feet as a result.

It is undisputed that § 87(2)(b) broke a toe on his left foot and suffered abrasions in his left hand and on his right foot during this incident. § 87(2)(b) alleged that Det. Myers struck his door with his shoulder as he was entering, causing it to strike his foot, breaking his toe, and his hand, causing the abrasion. § 87(2)(g)

The officers stated that when Det. Myers grabbed § 87(2)(b)'s arm once he stepped out of the apartment, he pulled his body away, causing both of them to fall to the ground. Once on the ground, § 87(2)(b) continued to resist by moving his arms and body and kicking his legs. The officers denied that Det. Myers struck the door with his shoulder, pushed § 87(2)(b) against any objects, or intentionally stepped on his foot. They stated that they did not know what caused § 87(2)(b)'s injuries but stated that it was likely caused by his kicking his feet and struggling to resist arrest. As per their Line of Duty Injury and AIDED reports, Det. Myers suffered pain in his right wrist and shoulder and Det. Adams suffered swelling in his left shoulder, arm, and wrist as a result of this incident.

Penal Law Section 35.30 (Encl. 0K-L) and Patrol Guide section 203-11 (Encl. 0M-N) hold that officers are allowed to use minimum and necessary physical force to overcome resistance while effecting an arrest.

§ 87(2)(g)

Allegation C – Force – At § 87(2)(b) in Manhattan, Det. Paul Adams used physical force against § 87(2)(b)

Allegation D – Abuse of Authority – Det. Paul Adams entered and searched § 87(2)(b) in Manhattan.

As per the NYPD (Encl. 1B-C, 10P, 10AA), Det. Adams has retired. § 87(2)(g)

Allegation E – Abuse of Authority – At § 87(2)(b) in Manhattan, Sgt. Courtney Nilan refused to provide her name and/or shield number to § 87(2)(b)

Allegation F – Abuse of Authority – At the 1st Precinct stationhouse, Sgt. Alison Esposito refused to provide her name and/or shield number to § 87(2)(b)

Allegation G – Discourtesy – At the 1st Precinct stationhouse, Sgt. Alison Esposito spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that he asked Sgt. Nilan for her name at § 87(2)(b) and Sgt. Esposito for her name at the stationhouse. He also alleged that Sgt. Esposito told him to “shut the fuck up.” Neither officer recalled having heard § 87(2)(b) request their name and Sgt. Esposito denied having spoken discourteously to § 87(2)(b) § 87(2)(g)

Allegation H – Abuse of Authority – At the 1st Precinct stationhouse, an officer refused to provide his name and/or shield number to § 87(2)(b)

As previously discussed, the investigation was unable to independently identify the male officer who refused to provide his name to § 87(2)(b) and § 87(2)(b) was unable to identify the officer in a photo array. § 87(2)(g)

Team: 5

Investigator: _____ Alexander Opoku-Agyemang October 16, 2013
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date